



Re: Fw: Summary of Our Call Today on WV WIP Review 

Katherine Antos to: Robert Wood

12/21/2010 01:59 PM

Cc: Leo Essenthier, Lucinda Power, Kelly Gable, Christopher Day

Thx!

Katherine Wallace Antos
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Robert Wood

Katherine, Leo and Lucinda: Wanted to be sure...

12/21/2010 01:54:04 PM

From: Robert Wood/DC/USEPA/US
To: Katherine Antos/CBP/USEPA/US@EPA, Leo Essenthier/R3/USEPA/US@EPA, Lucinda Power/DC/USEPA/US@EPA
Date: 12/21/2010 01:54 PM
Subject: Fw: Summary of Our Call Today on WV WIP Review

Katherine, Leo and Lucinda:

Wanted to be sure you have a copy of this email from WV documenting their decisions on assigning gap and surplus in WV.

Rob

Acting Deputy Director
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410-267-5702

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wood.robert@epa.gov

----- Forwarded by Robert Wood/DC/USEPA/US on 12/21/2010 01:51 PM -----

From: "Montali, David A" <David.A.Montali@wv.gov>
To: Robert Wood/DC/USEPA/US@EPA
Cc: "Koon, Teresa M" <Teresa.M.Koon@wv.gov>, "Mandirola, Scott G" <Scott.G.Mandirola@wv.gov>, <btabb@ag.state.wv.us>, "Hannah, Steve" <shannah@ag.state.wv.us>, "Matt Monroe" <mmonroe@ag.state.wv.us>
Date: 12/14/2010 04:41 PM
Subject: RE: Summary of Our Call Today on WV WIP Review

Rob,

Thanks for the preview of EPA's WV WIP review.

AR0027210

After yesterday's call, we understood that the effect of the LA to WLA AFO shift was to signal EPA's future intent to designate additional CAFOs (and/or MS4s) if WIP implementation is not fully accomplished and, further, that it does not involve additional AFO BMPs and associated pollutant reductions over and above the level of effort portrayed in our final scenario and our WIP. This is described in your summary in the 3rd and 5th paragraphs under " LA to WLA Shifts for AFOs and Urban Stormwater". But the 4th paragraph appears to contradict this. Please clarify.

WV does not wish to take ownership of the shifts. Characterization by EPA as "minor backstops" is ok. The most important point is that WV will be initially afforded an opportunity to implement the TMDL as we prescribed in the WIP and that the backstops would only have impacts if sufficient progress is not achieved.

We agree that the Potomac P and sediment surpluses should be retained in the Potomac for now. But our true preference would be to transfer a portion of this surplus to the James watershed as necessary to cover gaps (as described on pages 13 and 14 of the WIP). If EPA will not allow transfer now, this will be an action item for us in Phase 2. We will coordinate with EPA and VA as necessary to ensure that the transfer won't jeopardize attainment of criteria in James River and transfer the amount needed after consideration of the positive impacts that would result from implementing existing WV TMDLs in the James watershed. We would also suggest that EPA not describe James gaps in percentage terms as they are unnecessarily inflammatory. Keep in mind that transfer of approximately half of the 1% P Potomac surplus (3519 #P/yr) would resolve James N & P gaps, as would transfer of less than 25% (6173 tons/yr) of the Potomac sediment surplus.

Your summary correctly indicates our agreement to prescribe James watershed reductions to the general category of nonpoint sources.

We have shared your email and discussed with the cc'd WVDA representatives who generally concur with our responses.

Thanks again,

Scott and Dave

-----Original Message-----

From: Wood.Robert@epamail.epa.gov [mailto:Wood.Robert@epamail.epa.gov]
Sent: Monday, December 13, 2010 7:41 PM
To: Mandirola, Scott G; Montali, David A; Koon, Teresa M
Cc: Hartman, Alana C; Antos.Katherine@epamail.epa.gov;
Essenthier.Leo@epamail.epa.gov; Capacasa.Jon@epamail.epa.gov;
Edward.James@epamail.epa.gov; Corbin.Jeffrey@epamail.epa.gov;
Koroncai.Robert@epamail.epa.gov
Subject: Summary of Our Call Today on WV WIP Review

Scott, Dave and Teresa,

Thanks for your time today to discuss EPA's review of WV's final Phase I WIP. I want to summarize the outcome of our discussion and invite you to add any points I may have missed, and if you concur with my summary, please respond to say so.

LA to WLA Shifts for AFOs and Urban Stormwater

As we discussed, upon review of the WV Phase I WIP, EPA noted many improvements to WV's final Phase I WIP. However, we still have some concerns about WV's reasonable assurance that programs necessary to reduce nonpoint source loadings from the animal feeding operation (AFO) and urban stormwater sectors to the levels envisioned in WV's WIP will be sufficiently implemented. As a result of these concerns, we propose to shift 75% of the animal feeding operation (AFO) loads and 50% of the urban stormwater loads that your WIP currently includes in the load allocation (LA) category over to the wasteload allocation (WLA) category.

As you may recall, in the draft WIP EPA shifted 100% of AFO loads over to the WLA, and 50% of the urban stormwater loads over to the WLA. Due in part to improvements in your WIP, we are proposing to back off the AFO shift to 75%. And unlike the draft TMDL, the shift of 50% of urban stormwater loads to the WLA does not assume that regulated stormwater would reduce loads by assuming more retrofit requirements than what was proposed in the WIP.

These proposed LA to WLA shifts are not an indication that EPA is intends to designate 75% of AFOs or 50% of urban lands as requiring NPDES permits. Rather, this shift signals that EPA is prepared to designate sources where necessary to ensure that nutrient and sediment controls identified in WV's WIP are implemented. Our hope is that the implementation rates envisioned in WV's WIP through voluntary programs will indeed be implemented on pace with two-year milestones and that relatively few NPDES designations will be necessary by EPA or the State.

We are committed to working with WV to make your strategy's work for reducing nutrient and sediment loads to local waters and to the Bay. The LA to WLA shifts are, however a signal that EPA is prepared to make such NPDES designations where necessary to implement the TMDL.

Under this LA to WLA shift, the TMDL would assume AFO practices on the ground that would be consistent with NPDES permit conditions (eg, full treatment train of waste management, barnyard runoff control, and mortality composting). WV already assumes most of these practices at very high implementation rates in their WIPs, and the LA to WLA shift for AFOs is necessary in EPA's view to help ensure these rates are achieved. Also, EPA would assume the same levels of feed management as the state proposed in its WIP.

In summary, EPA is not proposing to require additional NPDES controls on agriculture or urban lands at this time. Unless and until such designations are made, reductions the WIP calls on AFO and unregulated urban stormwater sources to achieve would continue to be managed by the state as unregulated sources.

Based on our call today, I am confident you understand why EPA is proposing these shifts and that these shifts can be described by EPA either as minor backstops of the WV WIP, or if WV wishes to request such shifts through email addendum to the Phase I WIP, EPA would consider these shifts part of the State's WIP and would characterize them as such. Please be aware that other jurisdictions have proposed these shifts themselves as a way to bolster reasonable assurance that urban and agricultural allocations will be achieved and maintained, rather than having EPA make these changes.

Please let me know as soon as possible whether you would prefer for EPA to consider the LA to WLA shifts described here to be minor backstops or, shifts requested by WV through an email addendum to your WIP.

Spare Allocation of Phosphorus in the WV Potomac Basin

We also discussed the fact that the WV Phase I WIP results in an approximate 1% spare allocation of P in the Potomac Basin or about 6,300 pounds per year. Based on our discussion, I understand that you would prefer that this spare allocation be held in reserve for the Potomac Basin so that if appropriate WV could propose to allocate this load to another sector or perhaps even another basin (James), in Phase II or after.

Please confirm that this accurately reflects your request.

Remaining Nutrient and Sediment Gap in the WV James Basin

Finally, we discussed the fact that the WV Phase I WIP results in TN, TP and TSS loadings in the WV James that exceed WV James allocations by 50%, 18% and 74% respectively. Based on our discussion I understand that you would prefer to assign the additional load reductions to close these gaps to the general category of nonpoint source. In the TMDL tables, we will do this by proportionally reducing NPS agriculture, septic and urban loads.

Please confirm that this accurately reflects your request.

In closing, thank you again for taking the time to discuss these matters with me today. I am most interested in your prompt response by COB tomorrow (Tuesday) so that EPA may finalize the TMDL allocation tables. Did I accurately characterize your requests for assigning the surplus and gaps? Would you prefer EPA characterize the LA to WLA shifts for AFOs and unregulated urban stormwater as minor backstops or as an addendum to WV's WIP?

Sincerely,

Rob Wood

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